

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|---------------------------|---|--------------------------|
| Ronald Marshall Ferguson, |) | C/A NO. 3:10-285-CMC-JRM |
| |) | |
| Plaintiff, |) | |
| |) | OPINION AND ORDER |
| v. |) | |
| |) | |
| Curtis Ray Cain, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter is before the court on Plaintiff's *pro se* complaint.¹ In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey, for pre-trial proceedings and a Report and Recommendation ("Report"). On March 1, 2009, the Magistrate Judge issued a Report recommending that this complaint be dismissed without prejudice and without issuance and service of process because the court lacks subject matter jurisdiction over this matter. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so.

On March 8, 2010, the court received a letter from Plaintiff addressed to the Clerk of Court. For purposes of this order, the court deems this letter to be an objection to the Report and Recommendation. The letter arguably addresses the merits of Plaintiff's claims, as well as his opinion of Defendant's improper motivation with respect to the real estate lease at issue in this action. It does not, however, address the jurisdictional concern.

¹ Plaintiff also has pending a motion to proceed in forma pauperis. This motion is mooted by the present order.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report of the Magistrate Judge, and Plaintiff's objection, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report by reference in this Order. This complaint is dismissed without prejudice and without issuance and service of process.²

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 9, 2010

² Plaintiff is, therefore, free to reassert his claims in a proper court. The ruling here is a determination only that the federal court lacks jurisdiction over the state law claim(s) asserted in the complaint.